MSS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 662 OF 2007

IN

CRIMINAL APPEAL NO. 859 OF 2006

SOHAIL ABDUL RASHID SHAIKH .. APPLICANT

Vs.

STATE OF MAHARASHTRA .. RESPONDENT

Mr.. M.J. Jamdar for applicant

Mr. F. R. Shaikh, Addl. PP

CORAM: **SMT. RANJANA DESAI, &**
SMT. R. S. DALVI, JJ.

DATE: **JULY 26, 2007**.

P.C.

. The applicant-appellant is convicted by the learned Additional Sessions Judge for Greater Bombay in Sessions Case No. 710 of 2000 inter alia for offences under Section 302 read with Section 34 of the Indian Penal Code and sentenced to life imprisonment.

2. The appeal preferred by the appellant is admitted. This is an application for bail.

3. We have heard at some length Mr. Jamdar, learned counsel appearing for the applicant-appellant. Mr. Jamdar has drawn our attention to order dated 27/10/05 passed by the Division Bench of this court to which one of us (Smt. Ranjana Desai, J.) was a party whereby original accused 2 is released on bail. The present applicant-appellant is original accused 1.

4. Mr. Jamdar contended that the case of the present appellant is almost on par with that of the accused who is released on bail. He submitted that the appellant is in jail for about seven years. Mr. Jamdar contended that the appellant is a young man and when the offence was committed he was about 18 years of age. He, therefore, submitted that the appellant be released on bail.

5. We have also heard Mr. Shaikh, the learned Additional Public Prosecutor.

6. It is true that there is no eye witness account of the incident in question. However, there are six circumstances against the present appellant. The incident is dated 15/4/2000. On 18/4/2000 body of the deceased was recovered at the instance of

the appellant. Mobile phone and chain of the deceased have also been recovered at the instance of the appellant. It is also the prosecution case that a broken lock of the room where the appellant had changed his clothes and a shoe which was bloodstained ware recovered at the instance of the appellant. The appellant was last seen with the deceased.

7. The learned Addl. PP has also pointed out to us that the appellant has antecedents . There were three theft cases registered against the appellant. We may also record that Mr. Jamdar has pointed out that all the three cases have resulted in acquittal.

8. Prima facie, we feel that the case of the appellant is not similar to that of Shakir Abdul Latif, who was released on bail by this court. The appellant cannot be released on bail. However, in the circumstances of the case, we feel that the appeal should be heard expeditiously.

9. We, therefore, direct the office to add this appeal to the final hearing board because the paper book is ready. If the appeal is not heard within a

period of one year from today, the appellant may move this court for bail. Needless to say that at that time his bail application will be considered afresh.

10. Application is disposed of.

JUDGE.

JUDGE.